

Vital Documents
Program

Office Memorandum • UNITED STATES GOVERNMENT

TO : Deputy Comptroller

FROM : Office of the General Counsel

SUBJECT: Vital Documents Program

DATE: **AUG 25 1951**

1. Reference is made to your memorandum of 23 July 1951, concerning the storage of certain financial documents in the Agency's Vital Records repository. The desirability of retaining such documents in the local files has led to your request for a method of having legally authenticated copies available in the event of destruction of the originals.

2. It is assumed that your request concerns the use of such records in a judicial trial, because any serious controversy over the contents probably would be decided there.

3. Since CIA is an Agency of the United States Government, this problem can be solved with less difficulty than would otherwise be the case. Section 1733b, of Title 28, U. S. Code, provides that properly authenticated copies or transcripts of any books, records, papers or documents of any department or agency of the United States shall be admitted in evidence equally with the originals thereof. In addition, Rule 44 of the Federal Rules of Civil Procedure provides a simple method of proving public records in a trial.

4. If your office has a carbon copy of any public record, that copy may be sent to the Vital Records repository in its present form, and it will be sufficient for use in court, even though the original is destroyed. It would be unnecessary to authenticate such a copy now, since it could be done immediately prior to its use in a trial.

5. If a carbon copy is unavailable, it will be sufficient to make a handwritten, typewritten, photostatic, photographic or other form of copy. Such copy should then be authenticated by a notation similar to this:

"This is a true and exact copy of the original.
John G. Public, Custodian of the original. 15 August 1951."

This copy can be placed in our Vital Records repository, and it will be sufficient for use in court even though the original is destroyed.

6. Incidentally, by utilizing the procedures outlined in the two preceding paragraphs, the copies could be admitted as evidence even though the originals had not been destroyed.

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7. The statute governing this problem (28 USC 1733b) has been construed frequently by the courts. For example, it has been held that a War Department photostat, which was certified as being a true and exact copy made from official records, is admissible in evidence. The court commented in this manner:

"Because it happens to be a photostatic copy is of no significance. It might have been hand-written or type-written. The certification of being a copy of the original by the proper official is sufficient." Vaughn v. United States, 78 F. Supp. 494 (1948).

Another case has held that photostats authenticated under the seal of the General Accounting Office could be admitted in evidence. United States v. Conti, 119 F.2d 652 (1941).

8. In many courts it may be necessary to have the Agency's seal affixed to a copy of the record involved. This will not be necessary, however, until the time of trial arrives.

9. It is possible that some of the material in your files would not fall within the categories of "books, records, papers or documents" of the Agency, and hence would not properly be governed by the provisions of 28 USC 1733b. However, even if this is so, the procedure outlined in paragraphs 4 and 5 above will be adequate to protect our rights during a trial because of rules of evidence which are universally followed by the courts. Such rules provide for a method of proving the contents of any document in the event the original is lost or destroyed. If neither litigating party can produce the original, the court will allow the introduction of secondary evidence. This is where our copies could be used, and even if we had no copies, other secondary evidence (e.g. memoranda, slips of paper outlining the transaction, oral evidence, etc.) could be used.

10. The above discussion illustrates the ease with which the Agency can overcome the loss of a record, in the event of a trial. It appears that this is the problem with which your office is primarily concerned, but if other problems are involved, please notify this office.

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OGC/JJB/McD

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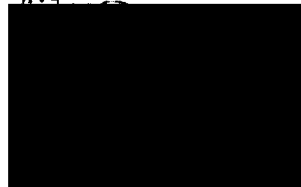
23 August 1951

MEMORANDUM FOR: EAD/OPC

SUBJECT: Vital projects pertaining to proprietary projects

REFERENCE: Memorandum 17 July 1951 from Deputy Comptroller
to EAD/OPC with copy to CM/OPC

1. In accordance with a telephone conversation of this date with Deputy Comptroller, CIA, CM Division is in accord with the suggested provision that the forms (draft of which was attached) be filled out by the Covert Office concerned, and that the Covert Office also assume responsibility for placing same in its portion of the vital document 25X1A9a



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